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STATE FOR OFFICE OF INVESTMENT AFFAIRS EB/IFD/OIA

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TAGS: [ECON](#) [EFIN](#) [EINV](#) [ETRD](#) [PGOV](#) [KIDE](#) [OPIC](#) [KTDB](#) [USTR](#)  
RW

SUBJECT: RWANDA INVESTMENT CLIMATE STATEMENT 2009

REF: STATE 123907

11. (U) This cable responds to queries in reftel

12. (U) OPENNESS TO FOREIGN INVESTMENT  
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-- The Government of Rwanda recognizes the private sector is an essential engine of development and welcomes foreign investment in policy and in practice.

-- In September 2008, the Rwanda Development Board (RDB) was established to fast track development projects and facilitate new investment. RDB consolidates several government agencies previously involved in promoting investment including the Rwanda Investment and Export Promotion Agency (RIEPA), the Rwanda Commercial Registration Service Agency (RCRSA), the Human Resource and Institutional Capacity Development Agency (HIDA), the Rwanda Information and Technology Agency (RITA) and the Rwanda Office of Tourism and National Parks (ORTPN).

-- The establishment of RDB builds on the investment law of March 2006 which assists investors in obtaining necessary licenses, visas, work permits, and tax incentives and which remains in full force. The law provides permanent residence and access to land for investors who deposit USD 500,000 in a commercial bank in Rwanda for a period not less than six months. This law also fixes the minimum initial capital investment requirement for foreign investors at USD 250,000 to qualify for tax and other investment incentives.

-- In 2007, RIEPA (now RDB) claimed to have registered 23 foreign investment projects valued at USD 229 million. However, of the 23 projects registered in 2007, only 9 projects successfully began operations or merged with local companies.

-- No statutory limits on foreign ownership or control exist, and there is no official economic or industrial strategy that has discriminatory effects on foreign investors.

-- Rwanda's legal investment infrastructure is still being developed. Specialized commercial courts began operations in May 2008, but have only just started to address the backlog

of cases. A business law reform commission is drafting new commercial legislation to facilitate investment and improve the business climate. Laws under consideration include protection of intellectual property, updated contract law, bankruptcy regulations and arbitration law.

-- While there is no mandatory screening of foreign investment, the RDB does evaluate business plans of investors seeking tax incentives to record incoming foreign investment and to better allocate investment incentives to qualified foreign investors.

-- The government encourages foreign investment through outreach and tax incentives. The only difference in treatment between foreign and domestic companies is the initial capital requirement for official registration (registration is not mandatory) ) USD 250,000 for foreign investors; USD 100,000 for domestic investors. There are no reports of foreign investors declining to invest due to these differing treatments. Foreign investors can start a new business irrespective of the initial capital requirement.

-- Foreign investors can acquire real estate, but there is a general limit on land ownership. Although land is owned by the state, both foreign and local investors can acquire land through lease-hold agreements that extend from 50 to 99 years.

-- The Government of Rwanda established the Privatization Secretariat and the National Tender Board to ensure transparency in government tenders and divestment of state-owned enterprises.

-- The law establishing the RDB provides investors with a one-stop investment services center. Additionally, RDB organizes investment conferences, both in Rwanda and abroad, to attract foreign investment. RDB directors and local businesses regularly join Rwandan President Paul Kagame in overseas tours to attract foreign investors. RDB assists potential investors in securing all required approvals, certificates, land for their projects, work permits, and tax incentives. No discrimination has been reported against foreign investors who pass through RDB. Legally, foreign firms are treated equally with regards to taxes, access to licenses, approvals, and procurement. However, during 2008 some foreign investors asserted unequal treatment for foreign companies versus domestic firms on tax enforcement.

-- There are no laws requiring private firms to adopt articles of incorporation or association which limit or prohibit foreign investment, participation, or control.

### 13. (U) CONVERSION AND TRANSFER POLICIES

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-- There is no difficulty obtaining foreign exchange, or transferring funds associated with an investment into a freely usable currency and at a legal market clearing rate. In 1995, the Government of Rwanda established a market-determined exchange rate system under which all lending and deposit interest rates were liberalized. The Central Bank holds daily foreign exchange sales freely accessed by commercial banks.

-- Investors can remit payments only through authorized commercial banks. There is no limit on the inflow of funds, but justification for all transfers over USD 20,000 is required by the Central Bank to facilitate the oversight of potential money laundering. Additionally, there are some restrictions on the outflow of export earnings. Export earnings generally must be repatriated within three months after the goods cross the border. Tea proceeds must be deposited after the auction in Mombassa. Repatriated export earnings deposited in commercial banks must match the exact declaration the exporter used crossing the border. Justifications are required to transfer more than USD 20,000

per year from Rwandan commercial banks. Rwandans working overseas can freely make remittances to their home country.

-- It usually takes three days to transfer money using SWIFT financial services. Other financial services companies such as Western Union and Money Gram are also available to investors seeking to transfer funds.

-- Since January 2007, the Rwandan Franc (RwF) has been convertible for essentially all business transactions. Rwanda has a liberal monetary system and complies with IMF Article VIII and all Organization for Economic Cooperation and Development (OECD) convertibility requirements. The Rwandan Franc exchange rate is closely tied to the USD.

#### 14. (U) EXPROPRIATION AND COMPENSATION

-- The Government of Rwanda is authorized to expropriate property if it is in the public interest and for qualified private investment under the expropriation law of April 2007. Compensation is negotiated directly between the buyer and the seller. Valuation of expropriated property remains non-transparent and controversial. Legislation governing valuation of expropriated properties is still pending. In 2008, a number of property owners vocally protested expropriation of their property by the city of Kigali and claimed the compensation offered was below market value and not in accordance with the expropriation law.

-- Expropriation actions have been more common in the capital because Kigali is undergoing major development. No industrial plant has been expropriated thus far, as expropriation has been limited to residential areas and small farms. For detailed information on the expropriation law, visit [www.primature.gov](http://www.primature.gov) and official gazette law No 18/2007 of 19 April 2007.

-- There are no laws that require local ownership, but the Organic Land Law allows the Government to expropriate land that is underutilized.

#### 15. (U) DISPUTE SETTLEMENT

-- The Government of Rwanda established an arbitration center in 1998 as an alternative dispute resolution mechanism, but it has not lived up to expectations according to businesses that have utilized it. Rwanda is a member of the International Center for the Settlement of Investment Disputes (ICSID) and African Trade Insurance Agency (ATI), which are supported by the World Bank and Lloyds of London. ATI covers risk against restrictions on import and export activities, inconvertibility, expropriation, war, and civil disturbances.

-- In 2008, Rwanda opened specialized commercial courts to address commercial disputes and facilitate enforcement of property and contract rights.

-- The law governing commercial establishments, the investment law, the law on privatization and public investment, the land law and the law on protection and conservation of the environment currently are the main laws governing investments in Rwanda.

-- Judgments of foreign courts and governing law clauses in agreements are accepted and enforced by local courts. There have been growing numbers of private investment disputes in Rwanda, but the Government has never been involved as a complainant or respondent in a World Trade Organization dispute settlement.

-- Rwanda signed and ratified the Multilateral Investment Guarantee Agency (MIGA) convention on October 27, 1989. MIGA issues guarantees against non-commercial risks to enterprises

that invest in member countries.

#### 16. (U) PERFORMANCE REQUIREMENTS AND INCENTIVES

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-- The Government maintains measures that are alleged to violate the WTO's TRIMs (Trade Related Investment Measures) by allowing parallel imports of goods from countries where patents and original trade marks are not registered and recognized. However, as a least developed country, Rwanda has up to 2013 to abide by specific WTO TRIMs.

-- Unless stipulated in a memorandum of understanding that characterizes the purchase of privatized enterprises, performance requirements are not imposed as a condition for establishing, maintaining, or expanding other investments. They are mostly imposed as a condition to access tax and investment incentives. Investors who demonstrate capacity to add more value, and invest in priority sectors enjoy more tax and investment incentives which include VAT exemptions on all imported raw materials, 100 percent write-off on research and development costs, 5 to 7 percent reduction in corporate income tax if the company exports products and services valued from USD 3 to 5 million, duty exemption on equipment, and a favorable accelerated rate of depreciation of 50 percent in the first year.

-- Although there are no legal obligations regarding these matters, foreign investors are encouraged to transfer technology and expertise to local staff in the development of human resources. Work permits are granted to foreign expatriates as long as they are key personnel and fall into categories of skilled labor where Rwandans are not available.

-- RDB has been relatively successful in developing investment incentives and publicizing investment opportunities. Registered investors obtain certificates that bring benefits, including exemption from value-added tax and duties when importing machinery, equipment, and raw materials. RDB also assists with the issuance of expatriate work permits, securing all the required government permits, and assisting with land acquisition if required. Grants and special access to credit are provided to investors promoting rural areas. There are no import quotas for investors.

-- There is no legal requirement that investors purchase from local sources or export a certain percentage of their output. In order to benefit from incentives of the planned free export zone, a certain percentage of the finished product must be exported. Access to foreign exchange in relation to exports is regulated.

-- Preferential tax incentives are given to investors who create significant export-oriented growth. Determination is made upon request and is based on several factors: exports must total at least 80 percent of production (or exports total at least 10 percent if manufacturing under bond); capital investment is at least USD 100,000 (local investors and COMESA members) or USD 250,000 (non COMESA investors).

-- There is no legal obligation that nationals own shares in foreign investments or that shares of foreign equity be reduced over time, however, the Government strongly encourages local participation in foreign investments. Technology transfer can only be imparted to local employees. There is no condition that technology be transferred on certain terms.

-- The Government is not involved in assessing the type and source of raw materials for performance, but the National Bureau of Standards determines quality standards. Investors are not required to disclose proprietary information to government authorities.

-- U.S. and other foreign firms are allowed to participate in government-financed and/or subsidized research and development programs. In practice, foreign firms are given

priority in research projects because Rwanda has not yet fully developed a highly trained cadre of research professionals.

-- There are no onerous residence visa or work permit requirements that inhibit foreign investors, mobility. U.S. nationals are not required to have visas for the first 90 days of their stay in Rwanda. Other foreign nationals generally have their visa applications processed in a timely manner. As a result of joining the East African Community, East Africans are theoretically not required to have work permits in Rwanda. In practice, this is only applicable in some circumstances. The RDB facilitates visas and work permits for potential investors.

#### 17. (U) RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

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-- Local and foreign investors have the right to own and establish business enterprises in all forms of remunerative activity. The Rwandan constitution stipulates that every person has the right to private ownership, whether personal or in association with others. The right to private ownership cannot be violated except in the public interest, and with procedures that are determined by law, and subject to fair compensation.

-- Private entities are also allowed to acquire and to dispose of interests in business enterprises. Foreign nationals may hold shares in locally incorporated companies. The Government has divested and continues to divest in public enterprises that would compete with the private sector. However, holding companies closely affiliated with the Government continue to dominate the private sector.

#### 18. (U) PROTECTION OF PROPERTY RIGHTS

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-- The law protects and facilitates acquisition and disposition of all property rights. Investors involved in commercial agriculture have lease-hold titles and are able to secure property titles, if needed. The land law passed July 14, 2005 stipulates modalities of property registration, but no registries have been established yet.

-- Rwanda adheres to key international agreements on intellectual property rights and adequate protection of intellectual property rights, but as a least developed country, Rwanda has until 2013 to abide by specific Trade Related Intellectual Property (TRIP) arrangements. As a member of Common Market for East and Southern Africa (COMESA), Rwanda is automatically a member of African Regional Intellectual Property Organization (ARIPO). It is also a member of World Intellectual Property Organization (WIPO) and is currently working towards conforming its legislation to WTO trade-related aspects of intellectual property. The Ministry of Commerce (MINICOM), the Rwandan Revenue Authority (RRA), and the Rwandan Bureau of Standards (RBS) work together to address issues involving counterfeit products on the Rwandan market. Through the RBS and the RRA, Rwanda has earned accolades for its protection of intellectual property rights, but many goods that violate patents, especially pharmaceutical drugs, make it to market nonetheless.

-- Rwanda has not yet ratified WIPO internet treaties, but the Government has taken steps to implement and enforce the WTO TRIPS agreements. Intellectual property legislation covering patents, trademarks and copyrights have been drafted and are pending parliamentary review. A Registration Service Agency, which is part of the Rwanda Development Board (RDB), was established in 2008 and will further improve intellectual property rights by registering all commercial entities and facilitating business identification and branding.

## 19. (U) TRANSPARENCY OF THE REGULATORY SYSTEM

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-- The Government of Rwanda generally uses transparent policies and effective laws to foster clear rules consistent with international norms. Institutions such as the Rwanda Revenue Authority, the Ombudsman,s office, the Bureau of Standards, the National Public Prosecutions Authority (NPPA), the Rwanda Utilities Regulatory Agency, the National Tender Board, and the Privatization Secretariat all have clear rules and procedures. Some investors allege that regulations concerning the Rwanda Environment Management Agency and Rwanda Utilities and Regulation Agency are less transparent.

-- There is no formalized mechanism to publish draft laws for public comment, although civil society is sometimes accorded the opportunity to review proposed laws. There is no government effort to restrict foreign participation in industry standards-setting consortia or organizations.

-- Some investors complain that the strict enforcement of tax, labor, and environmental laws impede investment.

-- Rwanda established an Ombudsman,s office in 2004 that  
Q-- Rwanda established an Ombudsman,s office in 2004 that monitors transparency and compliance to regulation in all governmental sectors. The Rwanda Utility Regulation Agency, the Auditor General,s Office, the Anti-corruption Division in the Rwanda Revenue Authority, the National Bureau of Standards, and the National Tender Board also enforce regulations. Moreover, the press has openly exposed instances of bad debts and malfeasance in 2008 involving private citizens and Rwandan officials. This has led to some arrests and resignations.

-- There is no informal regulatory process managed by nongovernmental organizations. Existing legal, regulatory and accounting systems are generally transparent and consistent with international norms but are not always enforced.

-- A key component of the Government,s regulatory system is the Auditor General,s Office, established in 1999 to audit government adherence to fiscal controls. The Auditor General,s report for 2007 cited numerous accounting irregularities. The report issued to Parliament in October 2008 will be used to examine official conduct of government business. Based on the Auditor General,s report, the NPPA began wide-ranging criminal investigations during the year.

-- Consumer protection associations exist, but are largely ineffective. The business community has been able to lobby the Government and to provide feedback on government policy and execution through the Private Sector Federation, a business association partially funded by the government.

## 19. (U) EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

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-- Access to affordable credit is a serious challenge in Rwanda, as interest rates are relatively high and loans are usually short-term. However, credit terms generally reflect market rates and foreign investors are able to negotiate credit facilities from local lending institutions if they have collateral and &bankable8 projects.

-- The private sector has limited access to credit instruments. Most Rwandan banks are conservative, risk-averse and trade in a limited range of commercial products. A variety of credit instruments were introduced with the privatization of the commercial banks and more products such as mortgages are expected to become available as the local banking industry matures. Credit cards are not in use except in major hotels and a few restaurants, but debit cards have been introduced on a limited basis.

-- The Central Bank encourages and facilitates investments through the sale of treasury bills and bonds. An over-the-counter (OTC) market was established in 2008 with the assistance of the US Department of Treasury, but volume is limited and confined to sale of government treasury bills and a few corporate bonds.

-- The percentage of non-performing loans in the commercial market remains high at 29 percent in 2008.

-- In 2006, the Central Bank increased the capital requirement for commercial and investment banks to USD 9.2 million.

-- With only a small OTC market, corporations generally trade shares among themselves or with private investors. No hostile takeovers have occurred involving foreign investors, and both the Central Bank and the GOR have been very active in seeking foreign investors for the banking sector.

-- An effective regulatory system is monitored by the Central Bank, which is given high marks by the IMF.

#### 10. (U) POLITICAL VIOLENCE

-- Rwanda is a stable country with little violence. A strong police and military provide a security umbrella that minimizes potential criminal activity and political disturbances. There have been no incidents involving politically motivated damage to projects or installations since the 1994 genocide and war. However, in April and December 2008, unknown assailants detonated grenades in the vicinity of the Kigali Genocide Memorial Centre.

-- Parliamentary elections in 2008 were peaceful. Though the neighboring region remains unstable, Rwanda currently does not face insurgent activity from rebel groups operating in the Democratic Republic of Congo. Rwanda acts in concert with its neighbors to fight crime and terrorism, and it actively cooperates in efforts to identify and freeze the assets of known terrorist individuals or organizations.

#### 11. (U) CORRUPTION

-- The Rwandan government maintains a consistent policy of combating corruption. Although documented reports of corruption are relatively infrequent, the Government is periodically confronted with allegations of misconduct by officials using their office for personal gain. In general, such incidents are investigated, prosecuted and perpetrators punished when found guilty. Enforcement is the same for both foreign and local investors. When corruption involves high-ranking officials, they are dismissed or prosecuted. Senior government officials take pride in Rwanda's reputation as being tough on corruption, and the Parliament takes an active role in investigating public officials accused of corruption.

-- Rwanda has signed and ratified the UN Anti-corruption Convention. It is a signatory of the OECD Convention on Combating Bribery. It is also a signatory of the African Union Anti-corruption Convention. Giving and accepting a bribe is a criminal act under law, and penalties depend on circumstances surrounding the specific case. U.S. firms have not identified corruption as an obstacle for investment.

-- Some businesses report occurrences of petty corruption in the customs clearing process, but there are limited reports of corruption in transfers, dispute settlement, regulatory system, taxation or investment performance requirements.

-- A local company cannot deduct a bribe to a foreign official from taxes. A bribe by a local company to a foreign official is a crime in Rwanda.

-- Institutions including the Ombudsman,s office, the Anti-Corruption Unit in the Rwanda Revenue Authority, and the Auditor General,s Office identify corruption cases. The police and the NPPA prosecute cases.

-- There is a local chapter of Transparency International in Rwanda. Other similar regional non-governmental organizations do not operate in Rwanda, yet periodically issue reports on Rwanda.

#### ¶12. (U) BILATERAL INVESTMENT AGREEMENTS AND AGOA

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-- Rwanda is eligible for trade preferences under the African Growth and Opportunity Act (AGOA), which the United States enacted to extend duty-free and quota-free access to the U.S. market for nearly all textile and handicraft goods produced in eligible beneficiary countries. A Trade and Investment Framework Agreement (TIFA) was signed between the U.S and Rwanda in 2006 and a Bilateral Investment Treaty was signed in 2008.

#### ¶13. (U) OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

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-- The Overseas Private Investment Corporation (OPIC) has provided a single investment guarantee in Rwanda to Sorwathe, an American-owned tea factory. Given Rwanda,s political, Qan American-owned tea factory. Given Rwanda,s political, economic and currency stability, OPIC officials have expressed interest in expanding OPIC involvement in Rwanda and are currently evaluating several promising projects.

-- The Export-Import Bank (EXIM) continues its program to insure short-term export credit transactions involving various payment terms, including open accounts that cover exports to the U.S. of consumer goods, services, commodities, and certain capital goods. Rwanda is a member of the Multilateral Investment Guarantee Agency (MIGA) and the African Trade Insurance Agency (ATI).

#### ¶14. (U) LABOR

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-- General labor is available, but there is a shortage of skilled labor, including accountants, lawyers, and technicians. Higher institutes of technology, many private universities, and vocational institutes are improving and producing more and more graduates each year. In 2008, the Government decreed starting in 2010 English will become the language of instruction from elementary school grade three onwards. French will be taught as a course subject. .

-- Rwanda attempts to adhere to the International Labor Organization (ILO) convention protecting worker rights. Policies to protect workers in special labor conditions exist, but enforcement remains inconsistent. On-the-job training and technology transfer to local employees is encouraged, but not obligatory.

-- The national labor code was revised in 2000 to eliminate gender discrimination, restrictions on the mobility of labor, and wage controls. A new labor code is currently under review in Parliament. Laws relating to insurance are being drafted. Companies find skill deficits in many sectors when hiring, but these deficits will continue to shrink as literacy rates increase and more qualified people graduate from Rwandan institutions of higher learning. The general population,s literacy rate continues to improve.

#### ¶15. (U) FOREIGN TRADE ZONES/FREE PORTS

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-- Rwanda is a member of several sub-regional economic

organizations, such as the Economic Community of the Great Lakes (CEPGL), the Common Market for Eastern and Southern Africa (COMESA), and the East African Community (EAC). Member countries in COMESA have a free trade agreement. Goods originating from COMESA countries that comply with rules of origin qualify for duty free status. Value addition on imported raw materials must be 35 percent to qualify for duty free status. Rwanda plans to establish a free trade zone in the near future. Bonded warehouse facilities are available to businesses importing duty free materials.

¶16. (U) FOREIGN DIRECT INVESTMENT STATISTICS  
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-- UNCTAD World Investment Report 2008 reported foreign direct investment (FDI) statistics in Rwanda from 2006 to 2007 as follows: In 2006, FDI inward flows were USD 16 million representing 3.3 percent of gross capital formation. In 2007, FDI inward flows grew to USD 67 million or 12.2 percent of gross capital formation. As a percentage of GDP in 2007, FDI grew to 6.4 percent compared to 4.5 percent in ¶2006. These statistics differ considerably from estimates by the Rwanda Development Board which reported FDI in Rwanda for 2007 at USD 202 million. Most observers consider RDB estimates to be inflated due to RDB,s practice of front loading total projected investment at the time of business registration rather than recording actual capital inflows as Qregistration rather than recording actual capital inflows as they occur.

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